

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
DETROIT DIVISION**

ELAINE L. CHAO, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

JASON M. GOELDE, individually and as a
fiduciary of the ACCU-TEK SERVICE, INC. :
401(k) PLAN; and the ACCU-TEK SERVICE, :
INC. 401(k) PLAN,

Defendants.

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Case : 2:06-cv-10525

JUDGE SEAN F. COX

CONSENT ORDER AND JUDGMENT

Plaintiff, Elaine L. Chao, Secretary of Labor, United States Department of Labor, by counsel, pursuant to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §1001 et seq., has filed her Complaint against Defendant Jason M. Goelde, fiduciary with respect to the Accu-Tek Services, Inc. 401(k) Plan (hereinafter "Plan"), alleging that the Defendant violated his fiduciary obligations under ERISA §§ 403(c)(1), 404(a)(1)(A), 404(a)(1)(B), 404(a)(1)(D), 406(a)(1)(D), 406(b)(1) and (2) and 412(a) and (b), 29 U.S.C. §§1103(c)(1), 1104(a)(1)(A), 1104(a)(1)(B), 1104(a)(1)(D), 1106(a)(1)(D) and 1106(b)(1) and (2) and 1112(a) and (b), with respect to the Defendant's failure to remit and timely remit employee contributions to the Plan.

Defendant Jason M. Goelde, hereby appearing with counsel, admits to the jurisdiction of this Court over him and the subject matter of this action.

The Plaintiff and Defendant Jason M. Goelde have agreed to resolve all matters as alleged in the complaint (except for the imposition by Plaintiff of any penalty pursuant to ERISA §502(l), 29 U.S.C. 1132(l), and any proceedings related thereto), and said parties do now consent to entry of a Consent Order and Judgment by this Court in accordance therewith.

The parties agree that, if the Secretary of Labor assesses a penalty pursuant to ERISA §502(l) in connection with the violations alleged in this matter, the "applicable recovery amount" shall include all amounts paid in accordance with this Consent Order and Judgment.

Upon consideration of the record herein, and as agreed to by the parties, the Court finds that it has jurisdiction to enter this Consent Order and Judgment.

IT IS THEREFORE ORDERED that:

1. Defendant Jason M. Goelde is permanently enjoined and restrained from violating the provisions of Title I of ERISA, 29 U.S.C. §1001 et seq.
2. Following distribution to participants as detailed in paragraphs 3 and 4 below and termination of the Plan, Jason M. Goelde is hereby enjoined for a period of two years from serving as a fiduciary or service provider to any plan subject to the provisions of Title I of ERISA.
3. On or before November 10, 2006, Defendant Jason M. Goelde shall pay a total of \$6,527.47 to the Plan which represents \$4,301.57 in employee contributions, and \$2,225.90 in interest on unremitted and late employee contributions for the period July 20, 2001 through November 10, 2006.
4. The \$6,527.47 shall be credited to the accounts of participants, as well as accrued post-judgment interest (at the statutory post-judgment rate pursuant to 28 U.S.C. 1961). In the event that any participant who is eligible to have money credited to such participant's individual

investment account has already received a full distribution of the account balance prior to the date of entry of this Consent Order and Judgment, Defendant Jason M. Goelde shall notify such participant of the additional amount to which the participant is entitled under this Consent Order and Judgment and provide the participant with the option of rolling the additional distributions into another pension plan or individual retirement account (IRA) or taking a lump sum distribution in these amounts. Defendant Jason M. Goelde shall provide each participant with 30 days in which to respond to this notice and then shall, within 15 days, make distributions to the participants in accordance with their requests and issue appropriate IRS forms. The Defendant Jason M. Goelde shall provide the Secretary with satisfactory proof that the aforementioned sums were credited to the Plan participants' accounts or given to the individual.

5. Defendant Jason M. Goelde shall make a good faith effort, including utilizing the services of the Internal Revenue Service and the Social Security Administration, to locate any participants or their beneficiaries due distributions under the Consent Order and Judgment, and if such participants or their beneficiaries cannot be located for the purposes of distribution, Jason M. Goelde shall notify Joseph R. Menez, Regional Director, Cincinnati Regional Office, U.S. Department of Labor, Employee Benefits Security Administration, Ft. Wright Executive Building I, Suite 210, 1885 Dixie Highway, Fort Wright, Kentucky 41011-2664 within 60 days of signing this agreement, of the names, last known addresses and social security numbers of said participants or beneficiaries.

6. Following the restoration of money owed the Plan, defendant Jason M. Goelde shall administer and terminate the Plan within 30 days at no cost to the Plan.

7. Defendant Jason M. Goelde shall secure a fidelity bond and keep it active until such time as the Plan is terminated. Defendant shall also provide documentation of his actions regarding this paragraph to Joseph R. Menez, Regional Director, Cincinnati Regional Office, U.S. Department

of Labor, Employee Benefits Security Administration, Ft. Wright Executive Building I, Suite 210, 1885 Dixie Highway, Fort Wright, Kentucky 41011-2664 within 10 days of the entry of this Consent Order and Judgment.

8. Each party shall bear her, his, or its own fees, costs, and other expenses incurred by such party in connection with any stage of this proceeding to date, including but not limited to, attorneys fees which may be available under the Equal Access to Justice Act as amended.

9. The court shall maintain jurisdiction over this matter for purposes of enforcing this Consent Order and Judgment.

10. Nothing in this Consent Order and Judgment is binding on any government agency other than the United States Department of Labor.

DATED: January 29, 2007

s/ Sean F. Cox
SEAN F. COX
UNITED STATES DISTRICT COURT JUDGE

The undersigned apply for and consent to the entry of the above Consent Order and Judgment:

FOR THE PLAINTIFF
SECRETARY OF LABOR

BENJAMIN T. CHINNI
Associate Regional Solicitor


s/ Janice L. Thompson
JANICE L. THOMPSON (0030337)
Attorney for Plaintiff Secretary
of Labor, Elaine L. Chao
U.S. Department of Labor

DATED: 1/23/07

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FOR DEFENDANT

JASON M. GOELDE, individually
and as a fiduciary of the ACCU-TEK SERVICE,
INC., 401(k) PLAN


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DATED: 1/2-07